REMARKS

Reconsideration and allowance are respectfully requested.

Remarks Regarding Claim Amendments:

The amendments are fully supported by the original disclosure and, thus, no new matter is added by their entry. For example, typographical errors and other informalities are corrected, redundancies are eliminated, and clarity is improved in the claims. Support for the amendment to claim 11 may be found in paragraph [0004]. No new matter is added by these claim amendments.

Remarks Regarding Section 112:

Claim 12 is rejected under 35 U.S.C. § 112 as allegedly indefinite because a Markush group failed to have an "and" between the last two members and because the pharse "aryloxy radicals" was not grammatically correct in the context of the claim. This rejection is moot in view of Applicants' claim amendments and its withdrawal is requested.

Remarks Regarding Section 102:

A claim is anticipated only if each and every limitation as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil Co. of Calif.*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is claimed. See *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Claims 11, 12, 15, 16 and 18 stand rejected under 35 U.S.C. § 102 as allegedly unpatentable over von Haken Spence (U.S. Patent 6,355,744) and McMeeking (U.S. Patent 6,420,300) independently. Applicants traverse.

The claimed invention, as recited in claims 11, 12, 15, 16 and 18, are directed to a one step process for the preparation of a metal-organic compound. The claims are not anticipated by von Haken Spence or McKeeking at least because each reference, individually, do not disclose a one step process.

von Haken Spence and McMeeking are each directed to two step processes which are unlike Applicant's one step process. von Haken Spence describes, in Example 2, the following two step reaction to make $^tBu_3P{=}NTiCl_2Cp$:

$^tBu_3P{=}NH + n\text{-}BuLi >> {}^tBu_3P{=}NLi$ (1),

$^tBu_3P{=}NLi + CpTiCl_3 >> {}^tBu_3P{=}NTiCl_2Cp$ (2).

McMeeking refers to a similar two step process. Thus, both von Haken Spence and McMeeking refers to a clear two step process which contains (1) a first step where the Li-salt of the ligand is formed and (2) a second step where this salt is reacted with titanocene (IV) dichloride or $CpTiCl_3$.

The claimed invention, directed to a one step process, is novel over von Haken Spence and McMeeking at least because neither von Haken Spence nor McMeeking describes a one step process where the ligand reacts directly with, for example, $CpTiCl_3$ in the presence of any inorganic or metal-organic base.

For the reasons stated above, claims 11, 12, 15, 16 and 18 are (1) novel over von Haken Spence and (2) novel over McMeeking. Withdrawal of the Section 102 rejection is requested because the cited document fails to disclose all limitations of the claimed invention.

Remarks Regarding Section 103:

A claimed invention is unpatentable if the differences between it and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art. *In re Kahn*, 78 USPQ2d 1329, 1334 (Fed. Cir. 2006) citing *Graham v. John Deere*, 148 USPQ 459 (1966). The *Graham* analysis needs to be made explicitly. *KSR v. Teleflex*, 82 USPQ2d 1385, 1396 (2007). It requires findings of fact and a rational basis for combining the prior art disclosures to produce the claimed invention. See id. ("Often, it will be necessary for a court to look to interrelated teachings of multiple patents . . . and the background knowledge possessed by a person having ordinary skill in the art, all in order to determine whether

there was an apparent reason to combine the known elements in the fashion claimed by the patent at issue"). The use of hindsight reasoning is impermissible. See id. at 1397 ("A factfinder should be aware, of course, of the distortion caused by hindsight bias and must be cautious of arguments reliant upon ex post reasoning"). Thus, a prima facie case of obviousness requires "some rationale, articulation, or reasoned basis to explain why the conclusion of obviousness is correct." *Kahn* at 1335; see *KSR* at 1396.

Claims 11, 12, 15, 16 and 18-20 stand rejected under 35 U.S.C. § 103 as allegedly obvious in view of von Haken Spence (U.S. Patent 6,355,744), Gao (Canadian Patent 2,261,518) and Nielsen (U.S. publication 20040010142). Applicants traverse.

As stated above, the claimed invention is directed to a one step process and is novel and nonobvious over von Haken Spence at least because von Haken Spence does not disclose a one step process. The addition of Gao and Nielsen does not cure the defects of von Haken Spence.

Gao refers to methods of preparing phosphinimine catalysts of a specific formula. Like von Haken Spence, Gao does not teach or render Applicants's claimed process obvious because it does not disclose a one step process.

Nieson is cited by the Examiner to show that "bases such as alkyl lithium and alkyl magnesium halide are functionally equivalent (col. 5, [0077])." See, Office Action, page 4, first paragraph. As stated above, a combination of von Haken Spence and Gao does not disclose the one step method of Applicants' claimed invention for producing metal organic compounds with at least one imine ligand. Nieson refers to processes for the preparation of fused 1,2,4-thiadiazine derivatives. Significantly, Nieson does not disclose a one step method for producing metal organic compounds with at least one imine ligand and cannot cure the defects of von Haken Spence and Gao.

For the reasons stated above, Applicants submit that a combination of von Haken Spence, Gao, and Nieson does not disclose a one step method for producing metal organic compounds with at least one imine ligand as claimed in the instant claims. Withdrawal of the Section 103 rejections is requested because the claims would not have been obvious to one of ordinarily skill in the art when this invention was made.

Conclusion

Having fully responded to the pending Office Action, Applicants submit that the claims are in condition for allowance and earnestly solicit an early Notice to that effect. The Examiner is invited to contact the undersigned if additional information is required.

Respectfully submitted,

NIXON & VANDERHYE P.C.

By: /Eric Sinn/
Eric Sinn
Reg. No. 40,177

901 North Glebe Road, 11th Floor
Arlington, VA 22203-1808
Telephone: (703) 816-4000
Facsimile: (703) 816-4100